SIKKIM

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GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK.

No. 12/LD/97 Dated: the 10th November, 1997

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 29th day of October, 1997 is hereby published for general information:-

THE SIKKIM PROHIBITION OF SMOKING AND NON-SMOKERS HEALTH PROTECTION ACT, 1997

(ACT NO. 12 OF 1997)

AN

ACT

to provide for prohibition of smoking in places of public work or use and in public service vehicles in the State of Sikkim and to make provision for other matters connected therewith.

BE it enacted by the Legislative Assembly of the State of Sikkim in the Forty-eight Year of the Republic of India as follows:

Short title extent and Commencement.

1. (1) This Act may be called the Sikkim Prohibition of Smoking and Non-Smokers Health Protection Act, 1997.

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (1) In the Act, unless the context otherwise require,-

(a) "advertisement" means and includes any notice, circular, wall paper, pamphlet, display on hoarding, any visible representation made by means of any other means of any light, sound, smoke gas or any other means which has the effect of promoting smoking and the expression advertise shall be construed accordingly;

(b) "authorised officer" means a person authorised under section 4;

(c) "Government" means the Government of Sikkim;

(d) "Legislative Assembly" means the Legislative Assembly of Sikkim;

(e) "place of public work or use" means a place declared as such under section 3 and includes a auditoria, hospital buildings, health institutions amusement centres, restaurants, public offices, court buildings, educational institutions, libraries and the like which are visited by general public but does not include any open place;

(f) "public service vehicle" means a vehicle as defined under clause 35 of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(g) "rule" means any rule made under this Act.

Declaration of places of public work or use as no-smoking places.

3. As soon as may be after the commencement of this Act and thereafter from time to time, the Government may, by notification in the Official Gazette, declare any place of public work or use in theState to be no-smoking place for the purpose of this Act.

Power to the Government to authorise officers to act under the Act.

4. (1) The Government may, by notification in the Official Gazette, authorise one or more persons who shall be competent to act under this Act.

(2) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

Prohibition of smoking in places of public work or use.

5. No person shall smoke in any place of public work or use.

Prohibition of smoking in Public Vehicles.

6. Without prejudice to the provisions of the Motor Vehicles Act, 1988 (59 of 1988), no person shall smoke in a public service Vehicle.

Prohibition on advertisement or cigarettes etc.

7. Notwithstanding anything contained in any other law for the time being in force, no person shall advertise in any place and any public service Vehicle which may promote smoking, or the sale of cigrettes and beedis etc.

Prohibition of sale of cigarettes, etc. to minors.

8. No person shall sell cigarettes, beedis or any other such smoking substance to any person who is below the age of eighteen years.

Prohibition of storage, sale and distribution of cigarettes, etc. in the vicinity educational institutions.

9. No person shall himself or by any person on this behalf, store, sell or distribute cigarettes or beedis or any others such smoking substance within an area of one hundred metres around any College, School or educational institution.

Display and Exhibition of Board.

10. The owner or manager or incharge of affairs of every place of public work or use shall display an exhibit a board at a conspicuous place or places in and outside the premises visited or used by general public prominently stating that the place is a "No Smoking Zone" and that "Smoking is an Offence".

Penalties.

11. Any person who contravenes the provisions of —

(a) section 5, 6 or 9 shall be punishable with fine which may extend to one hundred rupees and in case of second or subsequent offence, shall be punishable with a minimum fine of two hundred rupees, but which may extend to five hundred rupees.

(b) section 7 or 8 shall be punishable with fine which may extend to five hundred rupees and in case of second or subsequent offence, shall be punishable with imprisonment which may extend to three months, or with a minimum fine of five hundred rupees, but which may extend to one thousand rupees, or with both.

Ejection of violators of this Act from the place of public work or use.

12. Any authorised officer or any police officer, not below the rank of sub-inspector, may eject any person from the place of public work or use who contravenes the provisions of this Act.

Court competent to try offences under this Act and take cognizence of offence.

13. (1) No court other than the court of a Magistrate of First class shall take cognizance of, try an offence under this Act.

(2) No court shall take cognizance of any offence under this Act except on a complaint in writing of an authorised officer with respect to offence under sections 5,6 and 9 and on a report in writing of a police officer, not below the rank of sub-inspector, with respect to the offences under sections 7 and 8.

Certain offences to be cognizable and bailable.

14. Not with standing anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) offences under sections 7 and 8 shall be cognizable and bailable.

Offences under the Act to be tried summarily

15. All offences under this Act shall be tried simmarily in the manner provided for summary trial under the Code of Criminal Procedure, 1973 (2 of 1974).

Power to delegate.

16. The Government may, by notificatlon in the Official Gazette, direct that any power exercisable by it, under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be specified therein.

Composition of offences.

17. The Government or any person authorised by it by general or special order in this behalf may either before or after the institution of the proceedings compound any offences made punishable by or under this Act.

Power to make rules.

18. (1) The Government may make rules to provide for or regulate any matter in respect of which this Act makes no provision or makes insufficient provision and provision is, in its opinion, necessary.

(2) Any rule made by the Government shall be subject to previous publication thereof in the Official Gazette.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly and if the House agrees in making any modification in the rule or the House agrees that the rulc should not be made, the rule shall thereafter have effect only in such modified from or be of no effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

B.C. SHARMA,
Secretary to the Govt. of Sikkim,
Law Department.

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